

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

June 19, 2003

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 19, 2003, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Bud Hentzen, Chair; Kerry Coulter, Vice-Chair; James Barfield (in @ 1:43); Ray Warren; Bill Johnson; Morris K. Dunlap; Ronald Marnell; Don Anderson; Jerry Michaelis; Jerry McGinty; David Wells. Frank Garofalo; Elizabeth Bishop and John W. McKay Jr. were not present. Staff members present were: Dale Miller, Secretary; Donna Goltry, Assistant Secretary; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; and Rose Simmering, Recording Secretary.

1. Approval of MAPC meeting minutes May 22, 2003 and June 5, 2003.

MOTION: That the minutes for May 22, 2003 be approved.

WARREN moved, **ANDERSON** seconded the motion, and it carried (10-0).

MOTION: That the minutes for June 5, 2003 be approved.

WELLS moved, **COULTER** seconded the motion, and it carried (10-0).

2-1. SUB2003-58 – One-Step Final Plant – CLAASSEN'S CORNER ADDITION, located on the northwest corner of Highway 254 (61st Street North) and 143rd Street East.

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. **A restrictive covenant is required that prohibits non-domestic wastes on the site until public sewer is available.**
- B. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed identifying existing drainage structures.**
- C. **County Engineering has requested the dedication of a major intersection street right of way measured from the centerline of westbound Highway K-254.**
- D. The right-of-way dimensions need to be shown.
- E. **County Surveying** has requested dimensions from the south line to the section line.
- F. Additional right-of-way is needed along 143rd St. East. The Access Management Regulations require a 60-ft half-street right-of-way width along rural arterials.
- G. If any drainage will be directed onto K-254, a letter shall be provided from KDOT indicating their agreement to accept such drainage.
- H. **County Engineering** needs to comment on the access controls. The plat proposes complete access control along K-254 (61st St. North) and complete access control along the south 200 feet of frontage along 143rd St. East. **"Complete access control" shall be platted along K-254. "Complete access control" shall be platted along 143rd St East except for location of one existing opening.**
- I. The plat's text shall note the dedication of the street to and for the use of the public.
- J. The front building setback needs to be revised to reference "building setback".
- K. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WELLS moved, **MARNELL** seconded the motion, and it carried (10-0).

2-2. SUB2003-62 – One-Step Final Plat – THE ESTATES AT HOLLENBECK FARMS ADDITION, located on the east side of 143rd Street East and south of 13th Street North.

- A. **City Engineering** needs to comment on the need for guarantees or easements. **The private sewer service line needs to be upgraded to public standards. A petition is needed. An off-site easement is also requested. The sewer easement for the 4" sewer service line may be deleted.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **County Engineering** needs to comment on the status of the applicant's drainage concept.
- D. The plat proposes two joint access openings along 143rd St. East including a joint access opening with the abutting property to the south. The final plat shall reference the dedication of access controls in the plat's text. **The access controls are approved.**
- E. **County Surveying** has requested that the sanitary sewer easement needs to be located.
- F. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- G. The plat's text shall note the dedication of the street to and for the use of the public.
- H. Regarding Reserve A, being platted for private drive purposes, the plat's text on the final plat tracing shall reference, by lot and block numbers, which lots are to be provided access by the reserve.
- I. A covenant shall be submitted regarding Reserve A platted for private drive purposes, which sets forth ownership and maintenance of the private drive, and future reversionary rights of the reserve to the lots benefiting from the reserve.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The applicant is reminded that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length

of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) The surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed)

- N. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat w ithin thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To defer until July 10, 2003.

JOHNSON moved, **MCGINTY** seconded the motion, and it carried (10-0).

2-3. SUB2003-59 – One-Step Final Plat – STARBUCK'S ADDITION, located on the west side of West Street, south of Maple.

- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **No guarantees are needed.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. An off-site drainage agreement is needed.**
- D. **Traffic Engineering** needs to comment on the access controls. The plat proposes one access opening along the north property line. **Access controls are approved.**
- E. The Applicant is advised that if platted, the building setback may be reduced to 20 feet.
- F. **Traffic Engineering** has requested a petition for a right turn lane. **The applicant shall meet with Traffic Engineering for further discussion of this issue prior to MAPC meeting.**
- G. The owners noted in the platting binder need to be signatories to the plat, or a revision to the binder showing that the site's ownership is in the party now shown on the final plat.
- H. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8

of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WELLS moved, **MARNELL** seconded the motion, and it carried (10-0).

2-4. SUB2003-61 – One-Step Final Plat – STRAW ADDITION, located north of 63rd Street South, on the west side of Hydraulic.

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact City Environmental Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. City water services are available to serve the site. City Engineering has requested a utility easement along the north line of Lot 3.
- C. City Water and Sewer Department requests a petition for future extension of sanitary sewer services.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- F. Traffic Engineering needs to comment on the access controls. The plat proposes one access opening along Hydraulic for Lot 3. The opening along Hydraulic shall be located along the south property line.
- G. The owners noted in the platting binder need to be signatories to the plat, or a revision to the binder showing that the site's ownership is in the party now shown on the final plat.
- H. Traffic Engineering has requested a restrictive covenant that permits cross-lot access with the abutting property to the south if the subject property is redeveloped as a non-residential site.
- I. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-ft utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WELLS moved, **MARNELL** seconded the motion, and it carried (10-0).

2-5. SUB2003-54 – One-Step Final Plat – LILLIE SECOND ADDITION, located south of Maple, on the west side of Maize Road.

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- B. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **No guarantees are required.**
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A minimum pad is needed.**
- E. **Traffic Engineering** needs to comment on the access controls, particularly the need for minimum separation between openings. The plat proposes two access openings along Maize Road. Distances should be shown for all segments of access control. The final plat shall reference the dedication of access controls in the plat's text. **Traffic Engineering has approved the existing opening along Maize Road. A second opening limited to rights-in/out shall be located in alignment with Wetmore Street across Maize Road. The applicant will be removing access controls along Hidden Valley Road.**
- F. **Traffic Engineering** has requested the dedication of additional right-of-way along Maize Road to conform with the 60-ft half-street right-of-way required by the Access Management Regulations. **The Subdivision Committee has approved a 10-ft sidewalk and utility easement.**
- G. **Traffic Engineering** has requested a petition for a contingent left turn bay at the major entrance.
- H. The location of the plat needs to be revised on the vicinity map.
- I. The range "1E" needs to be revised to "1W" as shown on the vicinity map.
- J. A PUD Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PUD (referenced as PUD #17) and its special conditions for development on this property.
- K. The 20-ft building setback denoted on the plat does not correspond with the setbacks specified on the PUD. **A 25-ft setback will be platted.**
- L. **City Fire Department** requests a 20-ft paved surface to serve all the structures including a loop or turnaround.
- M. **GIS** has requested that the street abutting the plat to the south be labeled as Hidden Valley Road.
- N. On the final plat tracing, a note shall be placed on the face of the plat indicating that this Addition is subject to the conditions of the Planned Unit Development.

- O. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- X. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Y. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: Deferred until July 10, 2003.

COULTER moved, **JOHNSON** seconded the motion, and it carried (10-0).

3-1. VAC2003-21 – Request to Vacate an Easement.

OWNER/APPLICANT: Carol Coash

LEGAL DESCRIPTION: The platted 10-foot utility easement, excluding the west 20-feet, between Lots 12 & 13, Block 1, Chelsea Estates, Wichita, Sedgwick County, Kansas

LOCATION: Generally located southeast of the 21st Street North – Rock Road intersection, 1941 Rutland.

REASON FOR REQUEST: Boundary shift.

CURRENT ZONING: Subject property and all adjoining properties are zoned "MF-18" Multi-Family residential zoning.

The applicant is requesting consideration for the vacation of the platted 10-foot wide utility easement as recorded between Lots 12 & 13, Block 1, Chelsea Estates Addition. The applicant proposes a boundary shift, attaching the north half of Lot 13 to the south of Lot 12. The boundary shift and the vacation of the utility easement would allow the applicant more area to build a single-family home on the reconfigured site. The Chelsea Estates Addition was recorded with the Register of Deeds August 5, 1977.

There is no sewer, water or private utilities in the easement proposed for vacation.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities, Planning Staff recommends approval to vacate the portion of the platted 10-foot utility easement as described in the legal description with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time May 12, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted easement described in the petition should be approved subject to the following conditions:
- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (2) All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (2) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCGINTY moved, **MARNELL** seconded the motion, and it carried (10-0).

3-2. VAC2003-22 – Request to Vacate an Alley.

<u>OWNER/APPLICANT:</u>	Sportcraft Incorporated Quick Trip Corporation, c/o John Dix
<u>AGENT:</u>	Baughman Company, P.A., c/o Terry Smythe
<u>LEGAL DESCRIPTION:</u>	All of the 15-foot wide alley from the east ROW line of West Street to the west ROW line of Illinois Street lying south and abutting to Lots 1-11, and lying north and abutting lots, 13 & 14, Block 4, Quincy Addition.
<u>LOCATION:</u>	Southeast of the Maple – West Street intersection
<u>REASON FOR REQUEST:</u>	Redevelopment of site
<u>CURRENT ZONING:</u>	Right-of-way has "LI" Limited Industrial zoning on its north, south and west sides. Properties to the east are zoned "LC" Limited Commercial AND "SF-5" Single Family Residential.

The applicants are requesting vacation of the (east to west) 15-foot wide alley for redevelopment of the site to the south, which was a restaurant. There are two owners abutting the alley, Sportcraft on the north and Quick Trip on the south. Reversion of the alley to private property would have ½ the width of the alley for the entire length going to the north side and ½ the width of the alley for the entire length going to the south side. An alley (north to south) that intersects the subject alley was vacated in January 1962. There is no sewer connection at the point of intersection of what use to be two alleys. The subject alley has been used for access. The Quincy Addition was recorded with the Register of Deeds March 5, 1889. There are sewer, manholes and utilities in the alley.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities, Planning Staff recommends approval to vacate the platted 15-foot alley as described in the legal description with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time May 12, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted alley and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted alley described in the petition should be approved subject to the following conditions:

1. Relocation and reconstruction of private utilities made necessary by this vacation shall be the responsibility of the applicant, and shall be constructed to the utilities' standards. The alley shall remain as a temporary easement until the utilities are relocated. Dedicate new easement(s), by separate instrument to cover the relocated utilities.
2. The applicant shall provide guarantee for relocation of sewer per the approval of the Public Works Engineer. The alley shall remain a temporary easement until the sewer is relocated. Dedicate new easement, by separate instrument to cover the relocated sewer.
3. Dedicate additional ROW for both Maple and West Streets, per the Traffic Engineer's recommendation.
4. Dedicate access control for both Maple and West Street, per the Traffic Engineer's recommendation.
5. The applicant shall guarantee the closure of the alley return, or modify the alley to driveway standards.
6. All improvements will be to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Relocation and reconstruction of private utilities made necessary by this vacation shall be the responsibility of the applicant, and shall be constructed to the utilities' standards. The alley shall remain as a temporary easement until the utilities are relocated. Dedicate new easement(s), by separate instrument to cover the relocated utilities.
2. The applicant shall provide guarantee for relocation of sewer per the approval of the Public Works Engineer. The alley shall remain a temporary easement until the sewer is relocated. Dedicate new easement, by separate instrument to cover the relocated sewer.
3. Dedicate additional ROW for both Maple and West Streets, per the Traffic Engineer's recommendation.
4. Dedicate access control for both Maple and West Street, per the Traffic Engineer's recommendation.
5. The applicant shall guarantee the closure of the alley return, or modify the alley to driveway standards.
6. All improvements will be to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCGINTY moved, **MARNELL** seconded the motion, and it carried (10-0).

3-3. VAC2003-23 – Request to Vacate an Easement.

OWNER/APPLICANT: KD Roofing Inc., c/o Keith Duggan

AGENT: Baughman Company PA, c/o Terry Smythe

LEGAL DESCRIPTION: That part of the utility easement described as the west 20 feet, excepting the north 10 feet and the south 10 feet, of Lot 5, Block 2, Regency Park Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located northwest of the 29th Street North – Webb Road intersection, 9920 E 29th Street North.

REASON FOR REQUEST: To allow more building square footage.

CURRENT ZONING: Subject property and all adjoining properties are zoned "LI" Limited Industrial.

The applicant is requesting consideration for the vacation of the 20-foot platted easement as recorded on Lot 5, Block 2, Regency Park Addition. The applicant requests the vacation to allow for more building square footage. The Regency Park Addition was recorded with the Register of Deeds in 2000.

There is no sewer in the easement proposed for vacation: pending comments from water and private utilities.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities, Planning Staff recommends approval to vacate the portion of the platted 20-foot utility easement as described in the legal description with conditions.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities, Planning Staff recommends approval to vacate the portion of the platted 10-foot utility easement as described in the legal description with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time May 12, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted easement described in the petition should be approved subject to the following conditions:
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 2. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (2) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCGINTY moved, **MARNELL** seconded the motion, and it carried (10-0).

3-4. VAC2003-24 – Request to Vacate an Alley.

OWNER/APPLICANT: USD 259 c/o Joe Hoover

LEGAL DESCRIPTION: The north – south alley that abuts Lots 148, Washington Avenue Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Northeast of the 13th Street N – Mosley Avenue intersection, 1539 Ohio

REASON FOR REQUEST: Past and future building expansion of L'Ouvarature Elementary

CURRENT ZONING: Subject property and properties northeast and east and south zoned "B" Multi-family residential. Properties west, south and north of the subject property are zoned "LI" Limited Industrial.

The applicant is requesting consideration to vacate the entire 16-foot wide, north to south alley that intersects 15th Street North and 14th Street North and abuts Lots 148 Washington Addition. There is an existing encroachment on the north end of the alley. Proposed expansion of L'Ouvarature Elementary will create more encroachments. The applicant owns all abutting properties. The alley is not used for access, it is currently schoolyard. The Washington Avenue Addition was recorded with the Register of Deeds in October 1885.

There is sewer and manholes in the length of the alley. There is no water or other utilities in the alley.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities, Planning Staff recommends approval to vacate the alley as described in the legal description with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time May 12, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted alley and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted alley described in the petition should be approved subject to the following conditions:
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant, per the approval of the Public Works Engineer.

2. All improvements will be to City Standards
3. Existing utilities will be come private utilities.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements will be to City Standards.
3. Existing utilities will be come private utilities.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCGINTY moved, **MARNELL** seconded the motion, and it carried (10-0).

3-5. VAC2003-25 – Request to Vacate an Alley.

OWNER/APPLICANT: USD 259 c/o Joe Hoover

LEGAL DESCRIPTION: That part of the 16 foot wide alley abutting Lots 1-48, inclusive, Block 12, as dedicated in the Eicholtz Addition of Wichita, Sedgwick County, Kansas.

LOCATION: Southeast of the Harry Street & Grove Street intersection, 2515 Osie.

REASON FOR REQUEST: Past and future building expansion of Chisholm Life Skills School

CURRENT ZONING: The site and all adjacent and abutting properties are zoned "SF-5"
Single- Family Residential

The applicant is requesting consideration to vacate all of a 20 foot wide, north (Osie Street) to south (Funston Street) alley because of existing encroachments and possible future encroachments caused by future building expansion. The alley is not developed and contains, besides the existing encroachments, a playground and track. The applicant owns all the properties abutting the alley. There is no sewer water or other utilities in the alley. There is sewer and manhole outside the alley's (Lots 2-14, even) east side. There are buildings over a portion of this sewer line. Records indicate this a private line.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities, Planning Staff recommends approval to vacate the platted 20-foot alley as described in the legal description with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time May 12, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted alley and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted alley described in the petition should be approved subject to the following conditions:
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 2. All improvements will be to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements will be to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCGINTY moved, **MARNELL** seconded the motion, and it carried (10-0).

3-6. VAC2003-26 – Request to Vacate an Easement.

OWNER/APPLICANT: USD 259 c/o Joe Hoover .

LEGAL DESCRIPTION: See Attached

LOCATION: Southeast of Lincoln Street and Broadway Street, 1210 Topeka

REASON FOR REQUEST: Past and future building expansion of Lincoln Elementary

CURRENT ZONING: Subject property and is zoned "MF-29" Multi-family and "B" Multi-family. Properties north of it are zoned "B". Properties east and west of it are zoned "MF-29".

The applicant is requesting consideration to (a) vacate the west 138 feet of the 20 foot wide easement (abutting the north side of Lot 18, Zimmerly's 2nd Addition and the south side of the School Reserve, Zimmerly's 2nd Addition) because of an existing encroachment, (b) vacate the east 155 feet of the 20 foot wide easement (abutting the north side of Lot 17, Zimmerly's 2nd Addition and the south side of the School Reserve, Zimmerly's 2nd Addition) because of a future encroachment, by proposed expansion of Lincoln Elementary and (c) vacate the west 4 feet of the north 40 feet of the easement that abuts the west side of Lot 17, Zimmerly's 2nd Addition, because of a future encroachment, by proposed expansion of Lincoln Elementary.

The easements were retained by the vacation of what was then a west to east alley connecting Emporia and Topeka and a north to south alley intersecting the east to west alley on the north and intersecting Bayley Street on the south; VAC-0525. The applicant owns all abutting properties. The Zimmerly's 2nd Addition was recorded with the Register of Deeds in 1891.

There is sewer and a manhole at approximately the point of intersection of the two easements. There is no water or other utilities in the easement. Portions of the USD 259 property are within a Historical Environs.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities, Planning Staff recommends approval to vacate that portions of the easements, as retained by a previous vacation of the alleys as described in the legal description with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time May 12, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described easements and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the easements described in the petition should be approved subject to the following conditions:
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 2. All improvements will be to City Standards.
 3. Retain a 20 foot (x) 20 foot portion of the easement around the manhole and sewer line, located approximately at the point of intersection of the east to west easement and the north to south easement. Provide survey locating this retained portion of the easement.
 4. Dedicate an additional 4 feet to the 16-foot to the west side of the north to south easement, located across from that eastern 4 foot portion of the of the north to south easement vacated. Provide survey locating this retained portion of the easement. .

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements will be to City Standards.
3. Retain a 20 foot (x) 20 foot portion of the easement around the manhole and sewer line, located approximately at the point of intersection of the east to west easement and the north to south easement. Provide survey locating this retained portion of the easement.
4. Dedicate an additional 4 feet to the 16-foot to the west side of the north to south easement, located across from that eastern 4 foot portion of the of the north to south easement vacated. Provide survey locating this retained portion of the easement. .

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCGINTY moved, **MARNELL** seconded the motion, and it carried (10-0).

3-7. VAC2003-27 – Request to Vacate an Allen.

OWNER/APPLICANT: WMS Properties

AGENT: AM Consulting c/o Kim Edgington.

LEGAL DESCRIPTION: That 13 foot alley as dedicated in Isabella Addition, Wichita, Sedgwick County Kansas, 21 – 52, inclusive, Block B and the south 390 feet of the 7 foot alley dedicated in the WMS Properties Addition Wichita, Sedgwick, County Kansas.

LOCATION: Southwest corner of Sheridan Street and Harry Street

REASON FOR REQUEST: Building Expansion

CURRENT ZONING: Site and properties west, north and south of site are zoned “LI” Limited Industrial. Properties east of the site are zoned “LI” & “LC” Limited Commercial.

The applicant is requesting consideration to vacate the south 390 feet of a 20 foot wide, north (Harry Street) to south (Merton Avenue) alley for future building expansion. The applicant owns the properties abutting the south 390 feet of the alley. Reversion rights would be to the applicant. The 20 foot wide alley was dedicated in two separate plats. The west 13 feet was dedicated on the Isabella Addition and the east 7 feet was dedicated on the WMS Properties Addition. The WMS Properties Addition vacated Earl Avenue (now All Hallows Avenue), Lots 1-50, inclusive, Block A, Isabella Addition, the alley abutting those lots and Lots 1-51 odd, Block B, Isabella Addition. The Isabella Addition was recorded with the Register of Deeds December 8, 1888. The WMS Properties Addition was recorded with the Register of Deeds June 1998.

There is sewer in the alley proposed for vacation; the alley will be retained as a utility easement. There is no water or utilities in the alley. The alley is not developed and the applicant proposes a drive over it. Merton Avenue on the alley's south end is not developed. Notification has been given to the two remaining abutting property owners on the northwest portion of the remaining alley.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from both private and public utilities, Planning Staff recommends approval to vacate the portion of the platted 20-foot alley as described in the legal description with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time May 12, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted alley and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted alley described in the petition should be approved subject to the following conditions:
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 2. All improvements shall be to City Standards.
 3. The applicant shall provided, based on subsequent recommendation of the Traffic Engineer and/or the Fire Department either/or a cul-de-sac turnaround, a hammer head turn around, dedicated access easement to public ROW or what access needed per recommendation.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be to City Standards.
3. The applicant shall provided, based on subsequent recommendation of the Traffic Engineer and/or the Fire Department either/or a cul-de-sac turnaround, a hammer head turn around, dedicated access easement to public ROW or what access needed per recommendation.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCGINTY moved, **MARNELL** seconded the motion, and it carried (10-0).

4. **Case No.: PUD2003-03 #17** – Catholic Diocese of Wichita c/o Rev. Robert E. Hemberger request Creation of the Lillie Addition Planned Unit Development on property described as;

Tract One:

A tract in the East Half of the Northeast Quarter of Section 30, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Commencing at a point on the West line of said East Half of said Northeast Quarter, 257.58 feet North of the Southwest corner of said East Half of said Northeast Quarter, thence North on said West line, 122.32 feet for a point of beginning; thence East parallel to the South line of said Northeast Quarter, 1318.9 feet more or less to the East line of said Northeast Quarter; thence North along the East line of said Northeast

Quarter, 297.3 feet more or less to the Southeast corner of the plat of Lexington, an Addition to Wichita, Kansas; thence West along the South line of said Lexington Addition, 1319.07 feet more or less to the Southwest corner of said Lexington Addition; thence South 296.24 feet more or less to the point of beginning, containing 9 acres, more or less.

Tract 2:

A tract of land in the East Half of the Northeast Quarter of Section 30, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point on the West line of said East Half of said Northeast Quarter, 257.58 feet North of the Southwest corner of said East Half of said Northeast Quarter, thence North on said West line 122.32 feet; thence East parallel to the South line of said Northeast Quarter, 1318.9 feet more or less to the East line of said Northeast Quarter; thence South on said East line 319.9 feet to a point 60 feet North of the Southeast corner of said Northeast Quarter; thence West parallel to the South line of said Northeast Quarter, 1024.4 feet to the P.C. of a curve; thence Northwesterly on a curve to the right, having a deflection angle of 51 degrees 01 minutes, and a radius of 104.79 feet, a distance of 93.31 feet to the P.T. of said curve; thence Northwesterly on a tangent to said curve, 95.74 feet to the P.C. of a curve; thence Northwesterly on a curve to the left, having a deflection angle of 26 degrees 39 minutes and a radius of 126.66 feet, a distance of 58.91 feet, to the P.T. of said curve; thence Northwesterly on a tangent to said curve 117.45 feet to the point of beginning, containing 9 acres, more or less. Generally located Southwest of Maple and Maize Road intersection

BACKGROUND: The applicant is proposing to develop a Planned Unit Development located along the west side of Maize Road, mid-mile between Maple Street and Kellogg Avenue. The unplatted tract is 17.14 acres (746,618.40 square feet) in size with proposed development being: office, community assembly/indoor recreation and townhouse residential unit.

The tract has one (1) existing, asphalt drive onto Maize Road, on its northeast side, which serves an existing, vacant Catholic Diocese building. The Diocese building is the only existing development on the tract and occupies approximately 6 acres of the 17.14 acres. The Diocese building (built of primarily stone and masonry with a pitched roof) is approximately 50,250 square feet in size, with 11,960 square feet of it being a gym/basketball court. The applicant proposes to renovate this structure, keeping the gym for leasing to community groups and developing the rest of the building (38,290 square feet) as professional office space. Even with the applicant proposing to share parking for the mixed uses of the building, the existing parking (101 spaces located in front of the building; 36,900 square feet) will need to be renovated and expanded to meet the parking requirement for the purposed uses.

The applicant proposes two possible developments/parcel descriptions;

- (i)
 - A maximum of 145,000 square feet of gross floor area for office development, including the 38,290 square feet of proposed office in the existing Diocese building.
 - A maximum of 20,000 square feet of gross floor area for community assembly/indoor recreation, including the 11,960 square feet of gym/basketball court in the existing Diocese building. All community assembly/recreation gross floor area will be confined to the existing Diocese building.
 - Zero (0) units of residential
- (ii)
 - A maximum of 60,000 square feet of gross floor area for office development, including the 38,290 square feet of proposed office in the existing Diocese building.
 - A maximum of 20,000 square feet of gross floor area for community assembly/indoor recreation, including the 11,980 square feet of gym/basketball court in the existing Diocese building. All community assembly/recreation gross floor area will be confined to the existing Diocese building.
 - 100 maximum units of residential. The maximum number of residential units can increase or decrease 1 unit for each 850 square feet of increase or decrease of square feet of gross floor area for office.

The proposed combinations of possible square feet of gross floor area for office, the possible number of residential units and the consistent gross floor area for community assembly/indoor recreation means traffic generated off the site will remain essentially the same, regardless of which development proposal is chosen. There would be a drop of 65 trips generated off the site, if the site was developed with the maximum 100 residential units (10 trip per unit) and the maximum of 60,000 square feet of gross floor area for office (11 trips per 1,000 square feet of gross floor area for office) as opposed to the maximum of 145,000 square feet of gross floor area for office and zero (0) residential units. The site as developed under its current zoning of "SF-5" would generate 10 trips per unit per day; the total trips per day can not be calculated at this time due to the unknown constraints of the drainage plan on the site.

The surrounding neighborhood is zoned "SF-5" and developed as single-family residences on lots or tracts ranging from approximately 8,000 square feet to 1 ½ acre tracts. The most common lot size appears to be between 8,000 square feet to 10,000 square feet. The single-family homes are typically some combination of brick, stone, a composite siding, or brick. The neighborhood and the subject tract are impacted by the Cowskin Flood Basin, of which the Calfskin Creek, located in this immediate area, flows into southwest of the area. Parts of the southeast and southwest corners of the subject tract are located within the 100-year flood plain, with this total area being approximately 1.40 acres. Extending beyond and running somewhat parallel to the 100-year flood plain, is an undetermined amount of the subject tract that is within the 500-year floodplain. The houses in the neighborhood immediately south of the subject tract and across McCormick (street sign – Hidden Valley Road) Street are within the 100-year flood plain. Portions of the neighborhoods to the west and east (across Maize Road) are within the 100-year flood plain and 500-year floodplain. There have been concerns expressed by the neighborhood in regards to the increase of impervious materials on the tract and its impact on drainage onto their properties. This area was part of the Halloween flood of the late 1990's. The applicant has turned in a One-Step Final Plat for review by the City Engineer. Due to the flood prone nature of the subject tract and the surrounding properties the plat will require development of the site to occur consistent with a detailed drainage plan approved by Public Works. Staff also recommends that the applicant provide an As Built Certification, by a Professional Engineer, PE, that the project has been constructed in accordance to the approved drainage plan, prior to the issuance of Certifications of Occupancy.

Design of channel improvements to the Cowskin between Kellogg and Maple are currently being done. The Corp of Engineers will review this design with implementation tentatively targeted for late summer of 2004. The design is part of a drainage study on the Cowskin Drainage Basin. This study has resulted in a railroad bridge over the Cowskin, located south of the current Kellogg bridge over the Cowskin, being removed. The railroad bridge was determined to be a significant factor in the Halloween floods of the late

1990's in regards to its catching floating debris which accumulated to the point that RR bridge acted like a dam and caused water to backup into the neighborhoods north of the RR bridge. The new Kellogg Bridge over the Cowskin will also be higher than the current bridge, thus eliminated a possible future point of obstruction in the channel, this work is currently under way.

There are existing, mature trees along the tract's south, west and most of the north side forming an almost solid landscape buffer between the tract and the abutting single-family residential. The applicant proposes to keep these trees and apply them as landscaping, screening and buffering.

CASE HISTORY: The tract is not platted. Up until as recently as 60-days ago the Catholic Diocese had been using the building, the Holy Family Center, for their handicapped ministry educational services, with the handicapped ministry's offices located also in the building. The Diocese purchased the building in the 1960's with its prior use being a school.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Single-family residences
EAST: "SF-5"	Single-family residences
SOUTH: "SF-5"	Single-family residences
WEST: "SF-5"	Single-family residences

PUBLIC SERVICES: Transportation access is via Maize Road, a 4-lane arterial at this location; the 2030 transportation plan shows no change in this status. There are no improvements shown for this section of Maize, between Maple on the north and Kellogg on the south, except for the current, 2002-2004, improvements at the Kellogg – Maize Road interchange. There are no traffic counts at this location, but traffic counts south of the Maple – Maize Road intersection were approximately 16,522 cars per day and an approximate 15,152 cars per day, north of the Kellogg – Maize Road intersection. Public water and sewer services are available. The area has drainage problems during moderate to heavy rains.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the amended *2002 Update to the Wichita-Sedgwick County Comprehensive Plan* shows the site as "public/institutional" and "low density residential". The proposed residential use of single-family residential, patio homes, attached condos/ townhouse, and duplexes are low density residential to moderate residential density types of housing and as such comply with the Comprehensive Plan's Land Use Guide recommended use of the site if applied within a planned development; the PUD.

The proposed office uses of medical, dental and general office does not specifically comply with the Comprehensive Plan's recommended use of the site. However, the applicant's proposal does seem to meet the intent of the first 2 of the 3 "Office Locational Guidelines" of the Comprehensive Plan: (1) being located adjacent to arterial streets; (2) having local, service-oriented offices incorporated within or adjacent to neighborhood and community scale commercial development, and (3) having low density office use as a transitional land use between residential uses and higher intensity uses. Applying the proposed mixed uses of PUD zoning to the site would allow integration into the single-family neighborhood. The MAPC has generally supported smaller scaled neighborhood office development at mid-mile locations.

The proposed community assembly/indoor recreation is close to what the Comprehensive Plan's "public/institutional" use is, the difference being that the leasing of the community assembly/indoor recreation would require "LC" Limited Commercial zoning. "LC" Limited Commercial zoning does not meet the "Locational Guidelines" of the Comprehensive Plan for this site. The PUD would allow renovation of an existing structure as office – community assembly/indoor recreation with a possible mix of office and low to moderate density residential development. Elements of the proposed development support the efforts to encourage infill projects in Wichita.

RECOMMENDATION: The P.U.D. is intended to create a superior quality development that may not conform to all the requirements of the Unified Zoning Code by:

- (1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities;
- (3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
- (4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The proposed P.U.D. meets most of these criteria in several ways by combining a mix of low density office use, low to moderate density single-family residential and the renovation of an existing structure into a facility that could present a unique community assembly/indoor recreation opportunity to the neighborhood and the general area.

Based on these comments and information available prior to the public hearing, Staff recommends the application be APPROVED subject to the General Provisions of the PUD platting within a year and the following Staff recommendations:

- (1) Amend #2 in General Provisions, by changing "...access shall be limited to a maximum of two openings..." Also amended with language in regards to the width of the existing opening and the possible second opening shall be approved by the Fire Chief or his designated representative. Also add the addition of a contingent left hand turn lane to the additional site, as referenced by the Traffic Engineer.
- (2) Amend # 3 in General Provisions, by adding "The applicant shall provide an As Built Certification, by a Professional Engineer, PE, that the project has been constructed in accordance to the approved drainage plan, prior to the issuance of Certifications of Occupancy.
- (3) Amend #4 in General Provisions to, "No development will occur until water or sewer have been provided to the site."

- (4) Amend #5 in General Provisions by removing reference to "Sec IV -A".
- (5) Amended Parcel Descriptions, in the Maximum Residential Height section by removing "March 20, 1997".
- (6) Amend #6 in General Provisions by adding the reference to complying with the UZC in regards to screening and buffering between non-residential zoning and abutting and adjacent residential zoning. Also add provide solid screening between residential and nonresidential uses on the tract.
- (7) Amend #7 in General Provisions by changing to "shielded to direct light downward and away from residential areas. Lighting shall be no higher than 20-feet and lighting shall be shown on the site plan for review and approval by the Planning Director.
- (8) Amend #8 in General Provisions by adding "permitted in the GO zoning", take out "pole signs" and leave "monument signs", and add "no flashing, moving or portable signs".
- (9) Amend #12 in General Provisions, to including masonry, masonry products, wood, stucco, synthetic stucco, stone, hardiboard or hardiplank, composite siding or similar materials. Add Site Elevations shall be submitted to be approved by the Planning Director prior to the issuance of any building permit.
- (10) Add to the General Provisions hours of operation for the community assembly /indoor recreation as 8AM to 9PM all days of the week.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Historically the property was used as institutional use by the Diocese and its previous owners. More recently, the Diocese had been using the building, the Holy Family Center, for their handicapped ministry educational services, with the handicapped ministry's offices also located in the building. The current zoning is "SF-5" and would allow single-family residential, within the minimum development standards for this zoning district. The surrounding area is zoned "SF-5" and developed as single family residential.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with single-family homes as currently zoned. The renovation and use of the Diocese building as proposed with the leasing of the gym/basketball court and the office use would require a zoning change to "LC"
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The location of a proposed mixed use of residential, office, community assembly/indoor recreation on this tract of land is not much different than what the Diocese building was recently being used for (office and recreation, although the gym has not been used for some time because of neglect) and what is permitted by right in the "SF-5" zoning district. The difference is in the possible development of the entire acreage and subsequent increase of activity in the area. The proposed uses or the permitted uses of its current zoning could be expected to contribute to the drainage problems of the area. The additional runoff from any new development on the site must be adequately addressed prior to development and prior to occupancy of the development. The General Provisions of the PUD will minimize the detrimental affects of the proposed development.
4. Length of time the property has remained vacant as zoned: The property has been used as recently as 60 days ago by the Diocese.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The *Comprehensive Plan* shows the property for public/institutional and low -density residential use, which is in conformance to some of the proposed uses on the tract. The proposed low to moderate density residential use is partially in conformance with the low -density residential designation shown on all property in the area. The use of the property would contribute to infill development.
6. Impact of the proposed development on community facilities: The site will have an impact of increased traffic on Maize Road, primarily generated by the office uses.

MOTION: Defer until July 10, 2003.

JOHNSON moved, **DUNLAP** seconded the motion, and it carried (10-0).

5. **Case No.: ZON2003-22** – Rick and Teresa Farber request Sedgwick County Zone change from "RR" Rural Residential to "LC" Limited Commercial on property described as;

Beginning at the Southwest corner of the Southwest Quarter of Section 17, Township 29 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas thence East 165 feet; thence North 525 feet; thence West 165 feet; thence South 525 feet to the point of beginning. Generally located Northeast corner of 95th Street South and Rock Road

BACKGROUND: The applicant requests a zone change from "RR" Rural Residential to "LC" Limited Commercial on a two acre unplatted tract located at the northeast corner of 95th Street South and Rock Road. The applicant owns a total of 80 acres at this location, and the remainder of the applicant's property will remain zoned "RR" Rural Residential and used for agriculture. The subject property is currently developed with a single family residential and a barn. The barn has been used to house retail business in violation of the Unified Zoning Code (UZC), thus necessitating the application for "LC" Limited Commercial zoning.

The character of the surrounding area is rural, with the urbanizing area of Derby approaching from the north and the current Derby city limit located 800 feet north of the subject property. All of the properties surrounding the subject property are zoned "RR" Rural Residential and are used for agriculture.

As it is currently developed, the subject property does not conform with several UZC requirements for commercial development. First, Section IV-B. of the UZC requires screening along the north and east property lines; however, no screening is provided. Second, Section IV-C.4. of the UZC requires a compatibility setback of 25 feet from both the north and east property lines; however, the proposed retail building does not meet this setback requirement. Third, Section IV-A.2.b. of the UZC requires the parking area

to be paved, but the existing parking area is unpaved. Section VII-E. of the UZC requires that the non-conformities on the subject property be brought into conformance when the following occurs: 1) any increase on the premises of more than 30 percent floor area or 50 percent value; or 2) any change in use to a more intensive use when a new certificate of occupancy is required.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Agriculture
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
WEST:	"RR"	Agriculture

PUBLIC SERVICES: The subject property has frontage along Rock Road, a four-lane arterial street, and 95th Street South, a two lane arterial street. The capacity of the existing arterial streets is sufficient to handle current and future projected traffic volumes, including additional traffic generated by the proposed two acres of commercial development.

The subject property has three existing access drives along Rock Road, which are located approximately 275 feet, 375 feet, and 475 feet north of the centerline of 95th Street South. The subject property has one existing access drive along 95th Street South, which is located approximately 150 feet east of the centerline of Rock Road. None of the existing access drives meet the requirements of the Access Management Policy, which indicates that on rural arterial streets that the first right-in/out drive should be located 330 feet from the centerline of the intersecting street and the first full movement drive should be located 660 feet from the centerline of the intersecting street. The location of access drives should be addressed at the time of platting.

The subject property also does not meet the right-of-way width requirements of the Access Management Policy. Currently 30 feet of half street right-of-way is provided for Rock Road and 50 feet of half street right-of-way is provided for 95th Street South. The Access Management Policy indicates that 60 feet of half street right-of-way should be provided for both streets with additional right-of-way (75 feet of half street right-of-way and a 25-foot by 25-foot corner clip) provided near the intersection. The provision of sufficient right-of-way should be addressed at the time of platting.

Public water and sewer service are not available to serve the subject property. At the time of platting, a guarantee for the extension of water and sewer service and a restrictive covenant limiting the subject property to domestic uses until sanitary sewer service is extended should be required.

CONFORMANCE TO PLANS/POLICIES: The Development Guide in the Sedgwick County comprehensive plan identifies this area as appropriate for "Rural" development and indicates that the subject property is located immediately outside the 2030 future growth area for Derby. The Future Land Use Map in the Derby comprehensive plan identifies this area as an "Agricultural Area" and shows the "Year 2010 Urbanizing Area" as being located approximately five-eighths of a mile north of the subject property and the "Urban Reserve Area" as being located approximately three-eighths of a mile north of the subject property.

Development and platting activity in the area have occurred faster than anticipated by the comprehensive plans, however. The current Derby city limit is located only 800 feet north of the subject property. Platted urban-scale lots within Derby are located only three-eighths of a mile north of the subject property and beyond the "Year 2010 Urbanizing Area" for Derby. A new public school has been constructed one-half mile north of the subject property.

The Sedgwick County comprehensive plan indicates that future commercial development is generally encouraged at arterial intersections. The Derby comprehensive plan indicates that commercial sites should be located adjacent to arterial streets. The location of the subject property meets these criteria.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting the property within one year.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The character of the surrounding area is rural. All of the properties surrounding the subject property are zoned "RR" Rural Residential and are used for agriculture. While commercial zoning and uses typically are not appropriate for rural areas, the subject property is located at the intersection of two arterial streets along a heavily-traveled corridor between Derby and Mulvane. This arterial intersection likely will be located in the future urban area for Derby given the more rapid pace of urban development than anticipated in this area. Therefore, commercial zoning and uses at this specific location is compatible with the zoning, uses, and character of the neighborhood given the subject property's location at the intersection of two arterial streets.
2. **The suitability of the subject property for the uses to which it has been restricted:** The subject property is zoned "RR" Rural Residential, is currently developed with a single-family residence and a barn, and is apparently suitable for the rural-based uses to which it is restricted. As the area urbanizes and the subject property becomes part of Derby, future urban-scale residential development of the subject property will be less desirable than other available property in the vicinity given the subject property's proximity to an arterial intersection.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Although the subject property does not conform to all development standards of the UZC, no residential development presently exists on nearby property. The existing non-conformities on the subject property will be required to be brought into conformance with UZC development standards when additional commercial development occurs on the subject property. Such improvements likely will occur prior to residential development occurring on nearby property. Therefore, detrimental affects on remaining residentially-zoned properties in the area should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: While the Sedgwick County and Derby comprehensive plans indicate that this area is appropriate for rural development and is outside the future growth area for Derby, development and platting activity in the area have occurred faster than anticipated by the comprehensive plans. Both the Sedgwick County and Derby comprehensive plans indicate that subject property's location at an arterial intersection make it appropriate for future commercial development.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated since access, right-of-way, and utility issues will be addressed according to adopted policies through the platting process.

SCOTT KNEBEL Planning staff presented staff report.

There have been changes in staff report since it was written and mailed to you. The applicant asked rezoning of this entire property here, and has since indicated that they only want to rezone the property located north of this parcel line, north of their residence, which would include the location of the existing retail building. The staff report discusses a number of issues regarding platting, and that was discussed at the Derby Planning Commission meeting a couple of weeks ago. This property is within the Derby subdivision jurisdiction, and they recommended that the property not be platted. Staff is going to defer to their judgment on this issue. I would recommend it be approved subject to the applicant submitting a revised legal description within one week.

TERESA FARBER, 9530 S. Rock Road I am operating a retail business/gift shop in the barn. The barn has been there for 80 to 100 years. Last summer we began operating this retail business. I sell gifts and items for the home. We didn't want to change the outside of the building or add on or anything like that. We just want to give people a place to come to the country and shop. Since we had talked to Scott and decided on the smaller zoning, we have gone back to the original request that would include the entire area.

KNEBEL That would change our recommendation regarding platting.

FARBER I know that the Derby Planning Commission has recommended that no other conditions be placed upon this zoning, no platting.

MILLER Scott, did the Derby Planning Commission consider the entire area?

KNEBEL I'm not sure, but I think they recommended just the portion north of the house.

MILLER But when they considered it, did they consider the whole thing or just the portion north of the house.

KNEBEL They considered the whole thing, but the applicant stated they only wanted to change just the one portion.

FARBER They did not know that. We left it how it was.

KNEBEL If the property to be rezoned is going to include vacant property that is available for construction in the future, then I think this Board should require platting. They will not be able to construct anything on that property in the future without the property being platted, so you would be basically doing half the process now then the other half of the process at some other point in the future. It has been standard practice when you rezone vacant property to require the property to be platted.

WELLS Scott what did Derby Planning Commission see? They approved the whole thing?

KNEBEL Their motion was not specific that they were only recommending the top portion, but it was discussed at the meeting that the applicant had decided not to request the larger portion. I mentioned that in my presentation, and the applicant discussed that as well with the Derby Planning Commission. It is certainly within this Board's right based upon what has been advertised to approve the entire property for rezoning.

JOHNSON If we approve this without the requirement of platting, they couldn't obtain a permit for that anyway, so if they were going to build something commercial on that corner, then it would have to be platted prior to that correct?

MILLER That is correct.

HENTZEN What is the zoning on the corner?

KNEBEL It is all Rural Residential, and they want Limited Commercial.

HENTZEN Could the applicant ask for a Conditional Use on that rural residential?

KNEBEL No, there is no Conditional Use for retail sales.

HENTZEN Scott, state what the request is now.

KNEBEL Basically it is the way that it is in the staff report. There would be no change from what is in the staff report.

MILLER They are asking for the entire area to be rezoned to "LC."

KNEBEL Two acres of "LC" zoning, and staff is recommending approval subject to platting.

HENTZEN Does the applicant understand what we are zeroed in on.

FARBER Yes, rezoning what was presented.

MARNELL I would like a clarification from the applicant. Are you looking to just have the place where the barn is without having platting, or are you willing to plat the whole thing and take the zoning on the whole place.

FARBER We really don't want to plat anything right now.

MARNELL Just the rezone on the small piece without platting?

FARBER That would be fine.

DUNLAP How long have you owned this property?

FARBER It has been in my husband's family for about 80 to 100 years.

DUNLAP This is a change from what you used to want to have out there. Are you thinking this will be a commercial area? They used to want to put some commercial down there, and I believe your husband objected, as did other neighbors in the area.

FARBER It might have been my brother-in-law Larry.

WARREN I agree with the request, and we ought to take the whole thing.

MOTION: To approve whole piece without platting.

WARREN moved, **DUNLAP** seconded the motion, and it carried (11-0).

JOHNSON I would like the record show that they can't get a permit on that until it is platted.

MILLER Reading from the letter from Don Losew from the City of Derby, it does not tell me if he considered the whole thing or the smaller piece without platting. So we need to get a clarification from them, and if Don tells us that it is his opinion that all they approved was the smaller piece without platting, then I think we will have to take it back to Derby for them to clarify what their motion was. Our position is that it is Derby's subdivision authority, and if they don't want to make them plat, it is up to them. We typically don't recommend approval of stuff that needs to be platted, because ultimately when you go to get a building permit then that is when you start having problems with the owner, or if there is a new owner, he is upset because somehow he bought something that he didn't know that he didn't have full right to, and then staff gets blamed for how did that go through?

WARREN I don't have any problem with that, and going through that process.

6. **Case No.: ZON2003-27** – William Jacob Nichols Living Trust c/o William Jacob Nichols (owner/applicant) request Zone change from "LC" Limited Commercial to "OW" Office Warehouse on property described as;

The north 102 feet of Lots 6, 7, & 8, except the north 90.39 feet of the west 1.13 feet of Lot 6, Block 1, Edminster Gardens Addition, Wichita, Sedgwick County, Kansas. Generally located North of 31st Street South between K-15 and Hillside

BACKGROUND: The applicant requests a zone change from "LC" Limited Commercial to "OW" Office Warehouse on a 0.6 acre platted tract located north of 31st Street South between K-15 and Hillside. The subject property is the north 102 feet of Lots 6-8, Edminster Gardens Addition and is developed with a warehouse-type building that was constructed in 1972 as a motorcycle repair building. The building permit for the motorcycle repair building indicated that the building was not appropriately zoned for body or fender work or for warehousing; however, the building has been used for warehousing in violation of the Unified Zoning Code (UZC). The applicant desires to lease the mostly vacant building to warehouse users and, therefore, has requested a zone change to "OW" Office Warehouse. The applicant owns a total of 1.83 acres at this location, and the remainder of the applicant's property will remain zoned "LC" Limited Commercial and is currently used as a restaurant.

The surrounding area is characterized by commercial uses along 31st Street South, K-15, and Hillside, with residential uses located on the interior properties beyond the commercial frontages. The properties east, west, and south of the subject property are zoned "LC" Limited Commercial and are developed with various commercial uses, including retail, vehicle repair, contractor services, and a recreational vehicle campground. The properties north of the subject property are zoned "SF-5" Single-Family Residential and are developed with single family residences.

As it is currently developed, the subject property does not conform with several UZC and Landscape Ordinance requirements for commercial development. First, Section IV-B. of the UZC requires screening along the north property line; however, no screening is provided. Second, Section IV-C.4. of the UZC requires a compatibility setback of 25 feet along the north property line; however, the building is set back only 15 feet. Third, Section 10.32.040 of the Landscape Ordinance requires a landscaped buffer along the north property line; however, no landscaped buffer is provided. Section VII-E. of the UZC requires that the non-conformities on the subject property be brought into conformance when the following occurs: 1) any increase on the premises of more than 30 percent floor area or 50 percent value; or 2) any change in use to a more intensive use when a new certificate of occupancy is required.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Single family residences
SOUTH:	"LC"	Recreational vehicle campground
EAST:	"LC"	Contractor services
WEST:	"LC"	Vehicle repair

PUBLIC SERVICES: The subject property has frontage along 31st Street South, a five-lane arterial street. The capacity of the existing arterial street is sufficient to handle current and future projected traffic volumes; in fact, office-warehouse type uses typically generate less traffic than many of the uses currently permitted on the subject property. Public water and sewer service currently serve the subject property.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The subject property conforms with the Land Use Guide and Locational Guidelines.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by commercial uses along 31st Street South, K-15, and Hillside. The properties east, west, and south of the subject property are zoned "LC" Limited Commercial. Similar zoning and uses exist in the vicinity and have proven to be compatible with this neighborhood's residential areas. Therefore, the request is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "LC" Limited Commercial but is developed with a warehouse-type building that is not conducive to supporting the types of businesses typically located in the "LC" Limited Commercial zoning district. Continued viable use of the current building on the subject property likely will not occur without the requested zone change.
4. Extent to which removal of the restrictions will detrimentally affect nearby property: Although the subject property does not conform to all development standards, the existing non-conformities on the subject property will be required to be brought into conformance prior to significant redevelopment occurring on the subject property. The current development on the subject property has existed for over 30 years without any apparent detrimental effects on nearby property, despite the non-conforming features of the subject property. The requested zone change will not increase the degree of non-conformity and, therefore, should not have any detrimental effects on nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The subject property conforms with the Land Use Guide and Locational Guidelines.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated since access.

SCOTT KNEBEL Planning staff presented staff report.

MOTION: To approve, subject to staff comments and citing the findings in their report.

DUNLAP moved, **ANDERSON** seconded the motion, and it carried (11-0).

7. **Case No.: CUP2003-30 DP260 Amendment #1** – Barbara Waddell (owner); Wilson Residential Co., L.L.C. (contract purchaser); P.E.C., P.A. c/o Rob Hartman (agent) request Amendment to The Wilson Estates Medical Park Community Unit Plan on property described as;

Lot 1, Block 2 and Reserve B of Legacy Park Wilson Estates Addition to Wichita County, Kansas. Generally located Southwest of Webb Road and west of 21st Street North

BACKGROUND: The applicant is requesting that a tract, which is 10+ acres in size, be returned from DP-260 Wilson Estates Medical Park to DP-201 Wilson Estates Residential C.U.P, the Wilson Farms residential community unit plan development to the west. This tract was originally part of DP-201. On May 14, 2002, it was approved for transfer to the new medical office development, DP-260 (CUP2002-00010/ZON2002-00018), subject to platting. As development has proceeded the developer has indicated the desire to use the 10 acres for additional single-family or patio home development rather than medical office uses and would like to reinstate it as part of DP-201.

Amendment #1 also eliminates eight parcels from DP-260 Wilson Estates Medical Park, reconfigures the boundaries of Parcels 2, 3, 7 and 10, and eliminates Reserve D. The reserve was provided as a 200-foot wide buffer between the office development and the residential area to the west. Under the current proposal, a 15-foot landscape buffer is required along the new western boundary of DP-260, with a provision for a waiver of this buffer if a buffer or landscape reserve is established on the adjoining residential tract. No building setback line is shown for the western boundary. This is contrary to typical development patterns by placing the buffer on the residential lots rather than the non-residential office lots. As requested, buildings may be placed up to the property lines rather than observing the standard 35-foot C.U.P. building setback for non-residential uses per the Unified Zoning Code. The residential C.U.P. has a 30-foot setback along the common property line and the Wilson Farms Fourth Addition has a platted 50-foot landscape easement and a reserve to compensate for the absence of setbacks on the office parcels.

The proposed amendment also reduces the number of monument signs on Wilson Estates Parkway by one less sign, concurrent with the reduction in boundaries of the C.U.P.

The amended C.U.P. would consist of ten office parcels. Parcels 4, 5, 6, 8, and 9 would remain unchanged, and are not part of Amendment #1. These parcels are located along Webb Road and Wilson Estates Parkway. Medical offices are under construction on Parcels 4, 5, and 8.

Parcel 3 would increase from 1.08 to 1.39 acres by including a 47-foot strip of Parcel 2. The gross floor area and building coverage would increase from 10,000 square feet to 20,000 square feet. The residual of Parcel 2 would be combined with the residual of Parcels 1 and 13 to form a 0.67-acre odd-shaped narrow parcel. Parcel 2 requests 5,000 square feet of gross floor area and building coverage. The net change in gross floor area and building coverage would be an 8,000 square foot decrease.

Parcel 7 would incorporate five parcels (Parcels 7, 14, 15, 16 and 17) and would be 4.19 acres in size. It would allow 50,000 square feet of gross floor area/building coverage, which is an increase of 2,000 square feet from current levels. Three buildings would be permitted.

Parcel 10 would incorporate the residual of Parcels 11 and 12 and increase from 1.96 acres to 4.33 acres. It would allow 50,000 square feet of gross floor area and building coverage, which is an increase of 3,000 square feet from current levels. Two buildings would be permitted.

The overall building coverage and gross floor area would increase from 20 percent to 25 percent for the C.U.P., even though the total floor area decreases by 3,000 square feet. This is because the decrease of 3,000 square feet is more than compensated by the decrease in the size of the office development.

Permitted uses are general office and medical service; all residential uses previously permitted on this property are excluded.

The surrounding area is low-density single-family (3/4 to one acre per lot) development to the south (The Foliage), southeast (Country Place) and west (The Preakness) on "SF-5" Single-Family zoning. The property to the north also is zoned "SF-5" and is developed with four-plex condominium units, Clubhouse Villas at Wilson Estates. The density of this development is five dwelling units per acre, which is considered low to moderate density. Eastminster is located across Webb Road.

CASE HISTORY: The amendment area is platted as Legacy Park Wilson Estates Addition, recorded June 27, 2000. Parcels 4, 5, 6, 8, and 9 are platted as Wilson Estates Medical Park, recorded January 8, 2003.

DP-260 (CUP2002-00010/ZON2002-00018) was approved by Wichita City Council on May 14, 2002.

Four administrative adjustments have been approved for DP-260. These included: (1) dividing the C.U.P. into 17 parcels instead of ten, but not increasing the overall amount of development allowed, approved October 28, 2002; (2) a boundary adjustment allowing 38 feet as the maximum height for tiled roof areas and 35 feet for all other roof areas for all parcels except Parcels 1-5, approved December 5, 2002; (3) transferring building coverage from Parcels 10, 11 and 12 to Parcels 4, 5 and 6 with no net gain in overall development, approved January 1, 2003, and modification in building signage on the north and east elevation of Parcel 8 only, approved February 13, 2003.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Residential (Clubhouse Villas at Wilson Estates)
EAST: "SF-5"	Eastminster United Presbyterian Church
SOUTH: "SF-5"	Residential (The Foliage), abandoned railroad right-of-way
WEST: "SF-5"	Residential (The Preakness)

PUBLIC SERVICES: The site has access from Webb Road, an arterial road with five lanes and a decel lane to Wilson Estates Parkway and to the major entrance on Webb Road.

Wilson Estates Parkway is a residential collector street connecting the residential areas within Wilson Estates with commercial and office development located along the arterials (Bradley Fair on Rock Road and Wilson Estates Office Park on 21st Street North).

Normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the *1999 Update to the Comprehensive Plan* identifies the general location as appropriate for "low density residential" development. However, the Wichita City Council approved the site for office development previously. The proposed amendment would use the majority of the tract in conformance to its approval for office use and to use the western one-third for low-density residential use in conformance with the Lands Use Guide.

RECOMMENDATION:

Amendment #1 requests a slight decrease from 220,000 square feet to 217,000 square feet of office development, but this development would be concentrated on approximately ten fewer acres. This would increase the floor area coverage on the parcels from 20 percent to 25 percent, and it would be concentrated in fewer buildings. In terms of traffic impact, the switch from office to residential should result in very little difference in volume of traffic generated since the slight reduction of 3,000 square feet in gross floor area is compensated by the addition of up to 16 dwellings.

The placement of the landscaping buffer on the adjacent residential tract is unconventional. It requires modification/waiver of the Unified Zoning Code minimum building setback requirement of 35 feet [Article III, Sec. III-C.2.b(2)(a)2], the rear yard, alley, service drive or combination with a depth of at least 30 feet [Article III, Sec. III-C.2.b(2)(a)3], and screening wall requirement [Article III, Sec. III-C.2.b(2)(d)].

Based upon these recommendations and the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

1. A modification/waiver of the Unified Zoning Code minimum building setback requirement of 35 feet [Article III, Sec. III-C.2.b(2)(a)2], the rear yard, alley, service drive or combination with a depth of at least 30 feet [Article III, Sec. III-C.2.b(2)(a)3], and screening wall requirement [Article III, Sec. III-C.2.b(2)(d)] shall be permitted so long as the adjacent property provides a landscape buffer easement in lieu of these requirements.
2. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
5. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The proposed tract is surrounded by property zoned "SF-5" Single-Family. Residential development at low density (0.6 to one acre per dwelling unit) is located to the south and west and at low to moderate density (5.38 dwelling units/acre) to the north. A large institutional use, Eastminster Presbyterian Church, is located to the east of Webb Road.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as previously approved.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The main impact is the potential to have fewer but larger buildings on the remaining parcels for office development. Also, the placement of buffer requirements upon the adjacent residential property transfers the burden of separating the residential and non-residential uses to the lower intensity use.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the *1999 Update to the Comprehensive Plan* identifies the general location as appropriate for "low density residential" development. However, the Wichita City Council approved the site for office development previously. The proposed amendment would use the majority of the tract in conformance to its approval for office use and to use the western one-third for low-density residential use in conformance with the Lands Use Guide.
5. Length of time the land has been vacant as currently zoned: The property has been zoned "SF-5" and was platted as one single lot in 2000. Most of the parcels of DP-260 along Webb Road and Wilson Estates Parkway are under development. Parcels remaining for office use since approval in 2002 for DP-260 with "GO" zoning are Parcels 7, 9 and 10.
5. Impact of the proposed development on community facilities: The proposed amendment should not add any significant impacts to community facilities beyond the amount of impacts anticipate by development already approved.

DONNA GOLTRY Planning staff presented staff report. The placement of landscape buffering and screening on the adjacent residential property and waiving the building setback lines is unusual. Generally, these requirements are met by the development on the commercial rather than the residential properties.

MICHAELIS Does that mean they can go in there on Parcel 10 and do commercial right up to their property line, and it would be up to the residences to provide the buffer? What is going to make them do that?

GOLTRY The residential CUP adjacent to DP-260 (DP-201)M is being revised to incorporate the buffer requirements within the residential CUP.

MICHAELIS Would that be like a common area or is that going to be up to each individual lot owner?

GOLTRY It is a buffer setback on the single-family lots that abut the tract, and for approximately the northern third of the tract, it is actually provided within a reserve area.

MCGINTY The buffer area looks like it does not go all the way to the street?

GOLTRY It is in a reserve area for landscaping, drainage and other uses.

MCGINTY Would it (landscape buffer) be required to be continued on around to the street on the office tracts from where it stops on the homeowners part?

GOLTRY No, they are asking for the buffer screening setback requirements to be accommodated on the residential tract rather than on the office tracts. The buffering will be in the reserve area.

MCGINTY Would that be included to extend onto the street?

GOLTRY Yes, that is the reserve area.

ISSAC KRUMMER with P.E.C. We are in agreement with the staff comments and would be happy to answer any questions at this time.

MICHAELIS I would like to know why you are doing that with the landscaping buffer.

KRUMMER It is at the request from the developer. They own both properties. They have chosen to put the buffer on the residential side with a berm with a wall on top. They have chosen to do it now with the residential, and not wait for the commercial to be developed. This way, they will be able to do that wall screening earlier.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MCGINTY** seconded the motion, and it carried (11-0).

8. **Case No.: DR 03-15** - The City of Kechi seeks annexation of properties located adjacent to the City of Kechi
- a) North and South of Highway 254, West of Rock Road
 - b) East of Hillside Road and North of 61st North

DAVE BARBER Planning staff presented staff report.

On May 8th and 22nd, 2003, the City of Kechi passed Resolution Nos. 03-499 and 03-501 respectively authorizing public hearings on July 10th and July 24th, 2003 for the purposes of considering annexation of eligible properties located a) North and south of Highway 254 west of Rock Road, and b) East of Hillside Road and north of 61st North. After review by staff, it has been concluded that the proposed annexation area north and south of Highway 254, west of Rock Road North **is not consistent** with the Wichita-Sedgwick County Comprehensive Plan. The proposed annexation area east of Hillside Road and north of 61st Street North **is consistent** with the Wichita-Sedgwick County Comprehensive Plan.

MCGINTY Will we be taking these Items separately or together?

MILLER Either way.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARREN moved, **MICHAELIS** seconded the motion.

MCGINTY Are you saying approval of both? I don't think that is what staff wants.

WARREN Our only concern is how it fits in with the Comprehensive Plan.

DUNLAP The Staff says one is not consistent and the other one is.

DAVID BARBER It is simply making a finding as to whether these two resolutions are consistent with the currently adopted Comprehensive Plan. But one is consistent and the other one is not.

DUNLAP I think we have been through this before. Kechi can still annex right?

BARBER That is true.

MOTION: To find that the proposed annexation area north and south of Highway 254, west of Rock Road Resolution NO. 03-499 of the City of Kechi to be not consistent with the adopted Wichita-Sedgwick County Comp. Plan.

And

The unilateral annexation east of Hillside Road and North of 61st Street North proposed by Resolution No. 03-501 of the City of Kechi to be consistent with the adopted Wichita-Sedgwick County Comp. Plan.

WARREN moved, **MICHAELIS** seconded the motion, and it carried (11-0).

9. Other matters

MILLER This is regarding the Conditional Use for accessory apartment, Case #2003-04, that was for a garage with a mother-in-law flat. MAPC approved the request, subject to installing brick wainscot siding on the portion of it used for the accessory apartment. Well, the applicant has submitted this vinyl-looking brick, and we are asking if this meets the spirit and intent of the Planning Commission?

(Sample material displayed for MAPC members to view)

MILLER Staff was thinking MAPC intended masonry brick, not vinyl product when MAPC added that condition.

WELLS I am going to abstain from this Item.

JOHNSON Can you look at what the colors are?

GOLTRY The siding was supposed to match it to the house.

WARREN I don't think we are ready to make to these kinds of decisions. The garage is already built.

MILLER It was not built to Code for residential occupancy.

WARREN It was not built to Code, but had he completed that building and got it done and then come in and asked for this, there would not be a problem.

MILLER He would have had to do the Building Code changes (for residential occupancy).

WARREN I can see that some day this will not be used as an accessory apartment. Probably this stuff will come off go back to what the original intent was.

MARNELL My opinion is brick is brick and that this is not brick. We made quite a few of exceptions to accommodate the applicant the last time, and we need to leave it brick.

MICHAELIS He already had it done, and he probably had it on and he doesn't have a brick ledge to put it on (masonry brick). And where this is at, and the visibility of everything else, I think this is a fair compromise. It is clear back on the back of the lot.

BARFIELD We need to be careful here. I think if this guy had brought this in the beginning and said "This is what I am considering. Is this acceptable?" And we said yes, that is one thing. That is not what happened.

JOHNSON Until he was in here, he didn't know if he was going to get the thing approved at all. So he didn't know we were going to require that (brick wainscoting). There will be a lot of composite materials starting to be used in the industry in the future.

SUBSTITUTE MOTION: We would require the applicant to abide by the terms of the original agreement that was set forth by this Commission. Substitute motion Fails 4-6-1. (**MCGINTY, MARNELL, COULTER, and BARFIELD** to approve substitute motion.) (Wells abstains).

MOTION: To approve this product

JOHNSON moved, **WARREN** seconded the motion, and it carried (6-4-1) (**MICHAELIS, HENTZEN, WARREN, JOHNSON, DUNLAP, and ANDERSON** approve) (**WELLS** abstains).

The Metropolitan Area Planning Department informally adjourned at 2:16 p.m.

State of Kansas)
Sedgwick County) ss

I, Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2003.

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)